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CERTIFICATE OF MAILING
37 C.F.R. 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on the date below:

Nov. 14, 2005
DATE

Paula S. Linkhart
Paula S. Linkhart

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: RYAN, Wayne L. et al.

Serial No.: 09/747,619
Patent No. 6,794,152

Confirmation No.: 1867

Filed: December 22, 2000

For: FLOW CYTOMETRY REAGENT AND SYSTEM

Group Art Unit: 1641

Examiner: NGUYEN, Bao-Thuy L.

Atty. Dkt. No.: 12642.0046.NPUS00

RENEWED PETITION FOR RECONSIDERATION
OF REQUEST FOR REPLACEMENT LETTERS PATENT

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicants hereby petition for reconsideration of request for a replacement Letters Patent for U.S. Patent No. 6,794,152, which was never received by Applicants.

To establish the non-receipt of the original Letters Patent, Applicants submit the following documents:

- 1) A statement from the practitioner; and
- 2) A copy of the docket records where the non-received Letters Patent would have been entered had it been received and docketed.

The petition is filed timely and no fee is believed to be due with the present submission; however, should any fees under 37 C.F.R. §§ 1.16 to 1.21 be deemed necessary for any reason

relating to this document, the Commissioner is hereby authorized to deduct said fee from Deposit Account No. 01-2508/12642.0046.NPUS00.

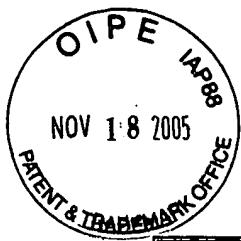
Respectfully submitted,



J. Wendy Davis, Ph.D.
Reg. No. 46,393
Agent for Assignee
Streck Laboratories, Inc.

Customer No. 23369
HOWREY LLP
2941 Fairview Park Drive, Box 7
Falls Church, VA 22042
703-336-6950 (fax)
713-787-1512 (direct phone)

Dated: November 14, 2005



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37 C.F.R. 1.8

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Nov. 14, 2005
DATE

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: RYAN, Wayne L. et al.

Serial No.: 09/747,619
Patent No. 6,794,152

Confirmation No.: 1867

Filed: December 22, 2000

For: FLOW CYTOMETRY REAGENT AND SYSTEM

Group Art Unit: 1641

Examiner: NGUYEN, Bao-Thuy L.

Atty. Dkt. No.: 12642.0046.NPUS00

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The undersigned hereby states that the Letters Patent bearing the U.S. Patent No. 6,794,152 was not received and that a search of the file jacket and docket records indicates that the above Letters Patent was not received.

A copy of the docket records where the non-received Letters Patent would have been entered had it been received and docketed is hereto attached. The attached docket records include USPTO Daily Logs of Howrey Simon Arnold & White during the time period of September 22, 2004 thru September 30, 2004 (Exhibit A). Also included are docket sheets for the above-referenced matter dated after the alleged mailing date of the above Letters Patent, i.e., September 21, 2004 (Exhibit B). The Examiner's attention is specifically directed to the highlighted portions of these docket sheets. A copy of an internal email correspondence between the former agent for

the Assignee and Howrey docketing personal is further included (Exhibit C). It is noted that the email correspondence was referenced in the enclosed docket sheet dated April 19, 2005.

Respectfully submitted,



J. Wendy Davis, Ph.D.
Reg. No. 46,393
Agent for Assignee
Streck Laboratories, Inc.

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703-336-6950 (fax)
713-787-1512 (direct phone)

Dated: November 14, 2005



2941 Fairview Park
Falls Church, VA 22042

USPTO Daily Log

Initials: SMB
Date: 9/22/04



2941 Fairview Park
Falls Church, VA 22042

USPTO Daily Log

Initials: KAK
Date: 09/23/04



2941 Fairview Park
Falls Church, VA 22042

USPTO Daily Log

Initials: JME
Date: 9/23/04



2941 Fairview Park
Falls Church, VA 22042

USPTO Daily Log

Initials: JME
Date: 9/27/04



2941 Fairview Park
Falls Church, VA 22042

USPTO Daily Log

Initials: JME
Date: 9/27/04



2941 Fairview Park
Falls Church, VA 22042

USPTO Daily Log

Initials: KAK
Date: 09/27/04



2941 Fairview Park
Falls Church, VA 22042

USPTO Daily Log

Initials: SMB
Date: 9/28/04



2941 Fairview Park
Falls Church, VA 22042

USPTO Daily Log

Initials: JME
Date: 9/28/04



2941 Fairview Park
Falls Church, VA 22042

USPTO Daily Log

Initials: KAK
Date: 09/28/04



2941 Fairview Park
Falls Church, VA 22042

USPTO Daily Log

Initials: JME
Date: 9/28/04



2941 Fairview Park
Falls Church, VA 22042

USPTO Daily Log

Initials: KAK
Date: 09/29/04



2941 Fairview Park
Falls Church, VA 22042

USPTO Daily Log

Initials: JME
Date: 9/29/04



2941 Fairview Park
Falls Church, VA 22042

USPTO Daily Log

Initials: KAK
Date: 09/30/04

12642.0046.NPUS00



Old Matter Number SRCK.046--
 Short Title FLOW CYTOMETRY REAGENT AND SYSTEM
 Region HOUSTON
 Location
 Defendant
 Opposer
 Language of Filing

Status Code	GRA
Country Code	US
Case Type	NAT
Last Amended	19-Apr-2005
Last Amended By	BAUSTIN1
Entity Size Ind	
CPA Reportable	Y
Module	P

<u>Base Reference</u>	<u>Date</u>	<u>Number</u>
Priority (first)		
PCT Filing No. / Date		
Application No. / Date	22-Dec-2000	09/747,619
Publication (early)	29-Aug-2002	2002-0119503A1
Publication (post-examination)		
Notice of Allowance / Acceptance date	05-Nov-2003	
Grant / Issue No. / Date	21-Sep-2004	6,794,152
Case created	20-Mar-2003	
Confirmation Number (US Only)		1867
Next Renewal	21-Mar-2008	
Next Renewal (before post-calc.)	21-Mar-2008	
Expiry	22-Dec-2020	
Expiry Date (before post-calc.)	22-Dec-2020	

<u>Role Type</u>	<u>Name</u>	<u>Reference Number</u>
Action Person	Shannon Roxana C.	
Billing Attorney	Nation Floyd R.	
Client	Streck Laboratories, Inc.	
Client Manager	Nation Floyd R.	
Inventor	Ryan Wayne L.	
Inventor	Turpen Paula B.	
Owner/Applicant/Proprietor	Streck Laboratories, Inc.	
Responsible Attorney	Klann Amy	

12642.0046.NPUS00

<u>Diary Due Dates</u>	<u>Action</u>	<u>Comments</u>	<u>Completed Date</u>
22-Dec-2020	Expiry		
21-Mar-2008	Maintenance fee		
21-Sep-2006	Reissue Patent Application Deadline		
21-Mar-2006	Reissue Patent Application Letter		
21-Jul-2005	Status - Letters Patent Check		
21-Jul-2005	Status - Soft Copies		
11-Dec-2004	Status Issue Notification	updt per wil dkt 2-19/iss fee rec'd by pto/file not matched for printing as of 3-17-04. Updt per WIL 4/9/04 dkt./Still not matched w/file 7-6-04 klann dkt 7-1-04. per PTO phone 7/14/04- appln being processed for printing, no estimate on issue date	21-Sep-2004
26-Apr-2004	Postcard Receipt Rec'd	issue fee transmittal and duplicate copy; rule 312 amendment; statement of large entity status; itemized postcard	03-Feb-2004
06-Feb-2004	Status Office Action		05-Nov-2003
05-Feb-2004	Issue fees due	Paid Monday d. 1-26-04 confirm/ask about possible divisional filing date:2-9-04 per Klann,d. 2-4-04/	26-Jan-2004
26-Jan-2004	Receipt of Rule 312 communication	Receipt of Rule 312 Communication approving changes.	11-Aug-2004
05-Dec-2003	Review Patent Term Adjustment	Dkt chnge per Klann, d. 2-4-04/	04-Feb-2004
30-Nov-2003	Substance of Interview	date of interview 10-30-03/remv per Wil dkt 1-7-04	07-Jan-2004
06-Nov-2003	Postcard Receipt Rec'd	respone to office action dated: 5/5/03; petition for extension of time; postcard	14-Aug-2003
05-Nov-2003	Notice of Allowance Rec'd		11-Nov-2003
05-Nov-2003	Response to OA Final Deadline		06-Aug-2003
05-Nov-2003	Notice of Allowability Rec'd		11-Nov-2003
30-Oct-2003	Interview Summary	Agreement was reached via telecom	11-Nov-2003
22-Oct-2003	Postcard Receipt Rec'd	Appointment of new attorneys of record and change of correspondence address with attached assignment for reference	28-Jul-2003
05-Oct-2003	Response to OA Extension 2		06-Aug-2003
05-Sep-2003	Response to OA Extension 1		06-Aug-2003
05-Aug-2003	Response to OA		06-Aug-2003
20-Apr-2003	Status Inquiry	OA; Dkt chgs per WHC d.5-21-03	21-May-2003

12642.0046.NPUS00

Abstract

Remarks

Note of Acceptance of POA in response to POA filed 7/22/03. The POA in this appln. is accepted and correspondence will be mailed to new address as provided by 37 CFR 1.33. Notice Regarding Change of POA in response to POA filed 7/22/03 re: Dobrusin & Thennish PC - the POA to you in this appln has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Letters Patent mailed to NV 9/21/04 per USPTO per AKlann 4/14/05 email. Letters Patent not received as of 4/14/05.

Claims

Date Docketed: 19-Apr-2005

Docketed By: _____ **Checked By:** _____

12642.0046.NPUS00

Old Matter Number	SRCK.046---	Status Code	GRA
		Country Code	US
Short Title	FLOW CYTOMETRY REAGENT AND SYSTEM	Case Type	NAT
Region	HOUSTON	Last Amended	11 May 2005
Location		Last Amended By	BIGELOWE
Defendant (Opps)		Entity Size Ind	
Opposer (Opps)		CPA Reportable	Y
Language of Filing		Module	Patents

Base Reference	Number	Date
Priority (first)		
PCT Filing No. / Date		
Application No. / Date	09/747,619	22 Dec 2000
Publication (early)	2002-0119503A1	29 Aug 2002
Publication (post-examination)		
Notice of Allowance / Acceptance date		05 Nov 2003
Grant / Issue No. / Date	6,794,152	21 Sep 2004
Case created		20 Mar 2003
Confirmation Number (US Only)	1867	
Next Renewal		21 Mar 2008
Next Renewal (before post-calc.)		21 Mar 2008
Expiry		22 Dec 2020
Expiry Date (before post-calc.)		22 Dec 2020

Role Type	Name	Reference Number
Action Person	Clements Julie	
Billing Attorney	Nation Floyd R.	
Client	Streck Laboratories, Inc.	
Client Manager	Nation Floyd R.	
Inventor	Ryan Wayne L.	
Inventor	Turpen Paula B.	
Owner/Applicant/Proprietor	Streck Laboratories, Inc.	
Responsible Attorney	Davis J. Wendy	

12642.0046.NPUS00

<u>Diary Due Dates</u>	<u>Action</u>	<u>Comments</u>	<u>Completed Date</u>
7/21/2005	Status - Soft Copies		
7/21/2005	Status - Letters Patent Check	5/2/05 Filed Req for Replacement Letters Patent ✓	
3/21/2006	Reissue Patent Application Letter		
9/21/2006	Reissue Patent Application Deadline		
3/21/2008	Maintenance fee		
12/22/2020	Expiry		
4/20/2003	Status Inquiry	OA; Dkt chgs per WHC d.5-21-03	5/21/2003
10/22/2003	Postcard Receipt Rec'd	Appointment of new attorneys of record and change of correspondence address with attached assignment for reference	7/28/2003
8/5/2003	Response to OA		8/6/2003
9/5/2003	Response to OA Extension 1		8/6/2003
10/5/2003	Response to OA Extension 2		8/6/2003
11/5/2003	Response to OA Final Deadline		8/6/2003
11/6/2003	Postcard Receipt Rec'd	response to office action dated: 5/5/03; petition for extension of time; postcard	8/14/2003
2/6/2004	Status Office Action		11/5/2003
10/30/2003	Interview Summary	Agreement was reached via telecom	11/11/2003
11/5/2003	Notice of Allowability Rec'd		11/11/2003
11/5/2003	Notice of Allowance Rec'd		11/11/2003
11/30/2003	Substance of Interview	date of interview 10-30-03/remv per Wil dkt 1-7-04	1/7/2004
2/5/2004	Issue fees due	Paid Monday d. 1-26-04 confirm/ask about possible divisional filing date:2-9-04 per Klann,d. 2-4-04/	1/26/2004
4/26/2004	Postcard Receipt Rec'd	issue fee transmittal and duplicate copy; rule 312 amendment; statement of large entity status; itemized postcard	2/3/2004
12/5/2003	Review Patent Term Adjustment	Dkt chnge per Klann, d. 2-4-04/	2/4/2004
1/26/2004	Receipt of Rule 312 communication	Receipt of Rule 312 Communication approving changes.	8/11/2004
12/11/2004	Status Issue Notification	updt per wil dkt 2-19/iss fee rec'd by pto/file not matched for printing as of 3-17-04. Updt per WIL 4/9/04 dkt//Still not matched w/file 7-6-04 klann dkt 7-1-04. per PTO phone 7/14/04- appn being processed for printing, no estimate on issue date	9/21/2004

Abstract**Remarks**

Note of Acceptance of POA in response to POA filed 7/22/03. The POA in this appln. is accepted and correspondence will be mailed to new address as provided by 37 CFR 1.33. Notice Regarding Change of POA in response to POA filed 7/22/03 re: Dobrusin & Thennish PC - the POA to you in this appln has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Letters Patent mailed to NV 9/21/04 per USPTO per AKlann 4/14/05 email. Letters Patent not received as of 4/14/05.

Claims**Date Docketed:** 12 May 2005**DOCKETED BY:** _____**CHECKED BY:** 

12642.0046.NPUS00

Old Matter Number	SRCK.046---	Status Code	<i>GRA</i>
		Country Code	<i>US</i>
Short Title	FLOW CYTOMETRY REAGENT AND SYSTEM	Case Type	NAT
Region	HOUSTON	Last Amended	16 Sep 2005
Location		Last Amended By	BIGELOWE
Defendant (Opps)		Entity Size Ind	
Opposer (Opps)		CPA Reportable	Y
Language of Filing		Module	Patents

<u>Base Reference</u>	<u>Number</u>	<u>Date</u>
Priority (first)		
PCT Filing No. / Date		
Application No. / Date	09/747,619	22 Dec 2000
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Publication (post-examination)		
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Next Renewal		21 Mar 2008
Next Renewal (before post-calc.)		21 Mar 2008
Expiry		22 Dec 2020
Expiry Date (before post-calc.)		22 Dec 2020
Last sent to CPA		21 May 2005

<u>Role Type</u>	<u>Name</u>	<u>Reference Number</u>
Action Person	DAVIS J. Wendy	
Billing Attorney	NATION Floyd R.	
Client	Streck Laboratories, Inc.	
Client Manager	NATION Floyd R.	
Inventor	Ryan Wayne L.	
Inventor	Turpen Paula B.	
Owner/Applicant/Proprietor	Streck Laboratories, Inc.	
Paralegal	CLEMENTS Julie	
Responsible Attorney	DAVIS J. Wendy	

12642.0046.NPUS00

<u>Diary Due Dates</u>	<u>Action</u>	<u>Comments</u>	<u>Completed Date</u>
10/21/2005	Status - Letters Patent Check	5/2/05 Filed Req for Replacement Letters Patent; 9/13/05 Chkd PAIR	
11/14/2005	Petition Due	FINAL; re Decision on 5/5/05 petition dismissed dtd 9/14/05	
3/21/2006	Reissue Patent Application Letter		
9/21/2006	Reissue Patent Application Deadline		
3/21/2008	Maintenance fee		
12/22/2020	Expiry		
4/20/2003	Status Inquiry	OA; Dkt chgs per WHC d.5-21-03	5/21/2003
10/22/2003	Postcard Receipt Rec'd	Appointment of new attorneys of record and change of correspondence address with attached assignment for reference	7/28/2003
8/5/2003	Response to OA		8/6/2003
9/5/2003	Response to OA Extension 1		8/6/2003
10/5/2003	Response to OA Extension 2		8/6/2003
11/5/2003	Response to OA Final Deadline		8/6/2003
11/6/2003	Postcard Receipt Rec'd	response to office action dated: 5/5/03; petition for extension of time; postcard	8/14/2003
2/6/2004	Status Office Action		11/5/2003
10/30/2003	Interview Summary	Agreement was reached via telecom	11/11/2003
11/5/2003	Notice of Allowability Rec'd		11/11/2003
11/5/2003	Notice of Allowance Rec'd		11/11/2003
11/30/2003	Substance of Interview	date of interview 10-30-03/remv per Wil dkt 1-7-04	1/7/2004
2/5/2004	Issue fees due	Paid Monday d. 1-26-04 confirm/ask about possible divisional filing date: 2-9-04 per Klann, d. 2-4-04/	1/26/2004
4/26/2004	Postcard Receipt Rec'd	issue fee transmittal and duplicate copy; rule 312 amendment; statement of large entity status; itemized postcard	2/3/2004
12/5/2003	Review Patent Term Adjustment	Dkt chnge per Klann, d. 2-4-04/	2/4/2004
1/26/2004	Receipt of Rule 312 communication	Receipt of Rule 312 Communication approving changes.	8/11/2004
12/11/2004	Status Issue Notification	updts per wil dkt 2-19/iss fee rec'd by pto/file not matched for printing as of 3-17-04. Updt per WIL 4/9/04 dkt.//Still not matched w/file 7-6-04 klann dkt 7-1-04. per PTO phone 7/14/04- appln being processed for printing, no estimate on issue date	9/21/2004
10/25/2005	Status Inquiry	Follow-up on req for replacement letters patent; 9/13/05 Chkd PAIR; 9/14/05 Dec Rec'd (Dismissed)	9/14/2005

Abstract**Remarks**

Notice of Acceptance of POA in response to POA filed 7/22/03. The POA in this application is accepted and correspondence will be mailed to new address as provided by 37 CFR 1.33. Notice Regarding Change of POA in response to POA filed 7/22/03 re: Dobrusin & Thennish PC - the POA to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record (37 CFR 1.33).

Letters Patent mailed to NV 9/21/04 per USPTO per AKlann 4/14/05 email. Letters Patent not received as of 4/14/05.

Claims

Date Docketed:	16 Sep 2005
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12642.0046.NPUS00

DOCKETED BY:

LLD

CHECKED BY:



Klann, Amy

From: Klann, Amy
Sent: Thursday, April 14, 2005 12:31 PM
To: Austin, Brenda
Cc: Drosos, Margaret
Subject: Letters Patent for US 6,794,152

Brenda:

I just discovered that one of my cases for Streck (12642.0046.NPUS00) issued last Sept. and we never got the letters patent. The PTO records indicate that it was mailed on 9/21/04 to the NVa IP docketing department. Can you confirm that we don't have it, I'll need to petition for a new one and pay for it if we can't locate it.

Thanks for your assistance.

Amy